

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6195 of 1986

For Approval and Signature:

Hon'ble MR.JUSTICE R.K.ABICHANDANI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

ATLAS PETROCHEMICALS

Versus

STATE OF GUJARAT

Appearance:

MR for YN OZA for Petitioner

MR KC SHAH ASSTT GOVERNMENT PLEADER for Respondent No. 1

MR GN SHAH for Respondent No. 2 (ABSENT)

CORAM : MR.JUSTICE R.K.ABICHANDANI

Date of decision: 19/03/99

ORAL JUDGEMENT

#. The petitioner seeks direction on the respondents to supply 400 KL(Kilo liters) per month of Super Kerosene Oil (SKO) to the petitioner for its manufacturing purpose. The grievance of the petitioner was that as against the need of the petitioner's unit for 600 KL of

SKO which was required for producing insecticides, permit was granted with the condition that the petitioner will not use more than 240 KL of SKO per month. According to the petitioner, their plant had the processing capacity of 900 KL per month and therefore, the petitioner approached the Government to release at least 400 KL SKO per month to enable the petitioner to run the factory in two shifts. The Director of Civil Supply thereafter informed the petitioner that its request for increasing the allotment of SKO could not be considered till the report of the Technical Committee was received. After consideration of the matter by the Committee, the petitioner started receiving 400 KL SKO per month from July, 1983. Thereafter, according to the petitioner, the allotment was reduced to 360 KL from March, 1984 which was further reduced to 300 KL per month from March, 1985. According to the petitioner, if the earlier quota was not restored, its factory would face closure rendering 40 employees unemployed. The case of the respondents is that at the relevant time kerosene was sold at subsidized price with the objective of giving it to poorer section of the population at a low price. The Government of India repeatedly requested the State Government that the use of the SKO for industrial purpose should be minimized and keeping in view that policy, the State Government evolved certain guidelines which included reduction in quota even in respect of old industrial units. It is therefore contended that the petitioner could not claim a particular quota as a matter of right and the quota could be varied for policy reasons. It is also pointed out by the respondents that in view of the giving of kerosene, the said commodity is now freely available since it is taken out of the purview of the Gujarat Essential Commodities (Licence Regulation and Declaration of Stock) Order 1986 as per the Press Note dated 23-2-1994, which was brought on record in Civil Application No.1445 of 1994 which was filed in the present petition.

#. The petitioner obviously, in view of kerosene being treated as the essential commodity at the relevant time which was being supplied to the poorer section of the society at a lower rate, could not claim a particular quota for industrial use as a matter of right. The Government of India had requested the State Governments to see to it that use of SKO for industrial purposes should be minimum. Even the Oil Coordination Committee insisted not to allow any SKO quota to the industrial units without technical essentialities. The Ministry of Food and Supply, Government of India reiterated in its communication that supply of kerosene under the Public Distribution System was designed to meet the requirements

of household, consumption for cooking and domestic lighting. Thus, since the Government policy was against giving SKO to industrial units so as to make it available to the poorer section of the society for its basic needs of cooking and lighting, the petitioner could not claim as a matter of right, to have a particular quota of kerosene and the respondent was justified in fluctuating the quota depending upon its policy. Now it is shown that kerosene is freely available and a Press Note was issued on 23-2-1994 which states that no licence was required under the provisions of the said Order. In fact, this should have made it unnecessary for the counsel for the petitioner to pursue the petition. However, since the contentions were canvassed, they have been considered.

In view of what is stated above, there is no substance in the petition and the petition is rejected. Rule is discharged with no order as to costs.

Date : 19-3-1999 (R.K.Abichandani, J.)

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